

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CELIA CAMPBELL,

Plaintiff,

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

08 CIV 7411 (LAK) (AJP)

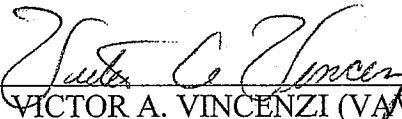
STATEMENT OF  
COMPLIANCE WITH  
LOCAL RULE 81.1(b)

Pursuant to Local Rule 81.1(b) of the Southern District of New York, the undersigned attorneys of record for defendants herein annex hereto and file herewith a complete copy of the records on file with the New York State Supreme Court, County of Bronx under Index Number 303120/08.

Dated: New York, New York  
September 3, 2008

LITCHFIELD CAVO LLP

By: \_\_\_\_\_

  
VICTOR A. VINCENZI (VAV-6652)

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

Bronx County Clerk Administration System

Case Details

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IndexNo: 303120-2008  
Case File Date: 4/17/2008  
Index Type: CT  
Firm Name: KENNETH A. LABARCA, ESQ.  
Plaintiff: celia campbell  
Defendent: gustavo villalba-coronado  
Notes: summons and verified complaint

Case Summary

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Document Date	Document Type
05/22/2008	Verified Answer
06/24/2008	RJI
06/24/2008	MOTION FEE PAID
07/25/2008	SFO MOTION DATED 07/23/08
08/06/2008	COPY ORDER W/NOTICE OF ENTRY
08/06/2008	Preliminary Conference Order dated 8/5/08.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

*Plaintiff,*

~ against ~

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

*Defendants.*

Index No.: 303 120 / 2008

Plaintiff designates  
BRONX County as the  
place of trial.

The basis of the venue is:  
Plaintiff's residence

**SUMMONS**

Plaintiff resides at:  
628 East 216<sup>th</sup> Street  
Bronx, New York  
County of Bronx,

09/03/08 17:10:37  
CLERK  
COUNTY

To the above named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
April 17, 2008

**LAW OFFICE OF KENNETH A. LABARCA**  
*Attorney for Plaintiff*  
305 Broadway, Suite 805  
New York, New York 10007  
Tel.: (212) 962-2211  
Fax: (212) 962-2255

Defendants' Addresses:

GUSTAVO VILLALBA-CORONADO  
146 EISENHOWER STREET, LAKEWOOD, NEW JERSEY 08701

FINKLE N. FREIGHT & LOGISTICS  
435 ALLWOOD ROAD, CLIFTON, NEW JERSEY 07012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

*Plaintiff,*

*~ against ~*

INDEX NO.: 303 120 / 2008

VERIFIED COMPLAINT

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

*Defendants.*

Plaintiff, complaining of defendants, by KENNETH A. LABARCA, ESQ., their attorney, respectfully allege and show to this Court:

1. That at all times hereinafter mentioned, plaintiff resides in the County of Bronx, City and State of New York.
2. That as a result of the hereinafter alleged occurrence, plaintiff herein suffered a serious injury as defined by Section 5102, Subdivision (d) of the Insurance Law of the State of New York.
3. That by reason thereof, plaintiff herein is entitled to recover for non- economic loss and for such economic losses as are not included within the definition of "basic economic loss" set forth in Section 5102, Subdivision (a) of the Insurance Law of the State of New York.
4. Plaintiff herein is a "covered person" as defined by Section 5102, Subdivision (j) of the Insurance Law of the State of New York.
5. This action falls within one or more of the exceptions set forth in CPLR 1602.
6. That at all times hereinafter mentioned, plaintiff was the operator and owner of a 2000 KIA bearing New York State License Plate EAB3256.
7. Upon information and belief, defendant Gustavo Villalba-Coronado, was a resident of Lakewood, New Jersey.

8. Upon information and belief, defendant Finkle N. Freight & Logistics was a foreign company duly licensed to do business in the State of New York.

9. Upon information and belief, that at all times hereinafter mentioned, defendant Finkle N. Freight & Logistics, owned a certain 1997 FRH truck bearing New Jersey License Plate number AK588L.

10. Upon information and belief, that at all times hereinafter mentioned, defendant Gustavo Villalba-Coronado, operated the vehicle owned by defendant, Finkle N. Freight & Logistics.

11. Upon information and belief, at all times hereinafter mentioned, defendant, Gustavo Villalba-Coronado, operated the vehicle owned by defendant, Finkle N. Freight & Logistics, with the consent and/or permission of the defendant, Finkle N. Freight & Logistics.

12. That at all times hereinafter mentioned, East 233<sup>rd</sup> and Provost Avenue, County of Bronx, City and State of New York, was and still is a public highway in common use by residents of the State of New York and others.

13. That on or about 30<sup>th</sup> day of October, 2007 at about 9:53 A.M. of that day, the aforesaid 1997 FRH truck, owned by defendant Finkle N. Freight & Logistics, and operated by defendant Gustavo Villalba-Coronado, was being operated by defendant Gustavo Villalba-Coronado in the vicinity of East 233<sup>rd</sup> and Provost Avenue, County of Bronx, City and State of New York.

14. Upon information and belief, the aforesaid vehicle 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and being operated by defendant, Gustavo Villalba-Coronado, was one of the vehicles involved in the occurrence hereinafter more fully set forth.

15. That on or about the 30<sup>th</sup> day of October, 2007 at about 9:53 A.M. of that day, while plaintiff Celia Campbell was operating her 2000 KIA, the said 2000 KIA was struck by the 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and operated by defendant, Finkle N.

Freight & Logistics, thereby causing plaintiff Celia Campbell to be thrown in and about the vehicle in which she was seated and to become seriously injured about her head, body and limbs.

16. That the aforesaid occurrence and the injuries sustained by plaintiff Celia Campbell therefrom were caused solely through the fault and negligence on the part of defendants without any fault or negligence on the part of said plaintiff contributing thereto.

17. That by reason of the aforesaid occurrence, plaintiff Celia Campbell was injured about her head, body and limbs; has suffered, still suffers and, upon information and belief, will in the future continue to suffer great mental and physical pain and bodily injury; that she has been disabled and, upon information and belief, will in the future continue to be disabled by reason of said injuries; that she has required and, upon information and belief, in the future continue to require hospitalization, medical and/or surgical aid and attention for said injuries; that she has expended great sum of money to date for medical aid and attention and, upon information and belief, will be required to do so in the future; that she has been unable to attend to her regular duties and vocation and lost wages and income therefrom and, upon information and belief will in the future continue to lose wages and income and plaintiff's earning power will be diminished; that upon information and belief, her injuries and their sequelae will be of a lasting and permanent nature, and plaintiff has been deprived of the enjoyment of her life, all to plaintiff's damage in an amount the exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demand judgment against defendants in an amount that exceeds the jurisdictional limits of all lower courts together with the costs and disbursements of this action.

Dated: New York, New York  
April 17, 2008



---

LAW OFFICE OF KENNETH A. LABARCA  
*Attorney for the Plaintiffs*  
305 Broadway, Suite 805  
New York, New York 10007  
Tel.: (212) 962-2211  
Fax: (212) 962-2255

ATTORNEY VERIFICATION

STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF NEW YORK    )

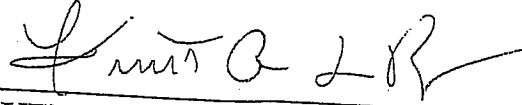
The undersigned, an attorney admitted to practice in the State of New York, affirms the following under the penalty of perjury and pursuant to CPLR §2106:

That I am the attorney of record for plaintiffs in the within action. I have read the foregoing **SUMMON AND COMPLAINT** and know the contents thereof; that same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and to those matters affirmant believes them to be true.

The undersigned further states that the reason this affirmation is made by the undersigned and not by the plaintiffs is because plaintiffs do not reside in the County where affirmant maintains his office.

The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are information contained in affirmant's file which has been obtained by the plaintiffs, police reports and investigation.

Dated: New York, New York  
April 17, 2008

  
\_\_\_\_\_  
KENNETH A. LABARCA



Law Office of  
KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, New York 10007

Index No.: 303120

Year: 2008

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

*Plaintiff,*


*~against~*

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

*Defendants.*

SUMMONS and VERIFIED COMPLAINT

Form Signature Rule: (130-1.1-a)



KENNETH A. LABARCA, ESQ.

*Attorney for Plaintiff*

305 Broadway, Suite 805  
New York, New York 10007

Tel.: (212) 962-2211

Fax: (212) 962-2255

To:

GUSTAVO VILLALBA-CORONADO  
146 EISENHOWER STREET, LAKEWOOD, NEW JERSEY 08701

FINKLE N. FREIGHT & LOGISTICS  
435 ALLWOOD ROAD, CLIFTON, NEW JERSEY 07012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

VERIFIED ANSWER

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

Defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, by their attorneys, LITCHFIELD CAVO, LLP, answering the complaint of the plaintiff herein, respectfully allege upon information and belief as follows:

1. Denies knowledge and information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated "1" and "6".
2. Denies each and every allegation contained in the paragraphs of the complaint designated "2", "16" and "17".
3. Denies each and every allegation contained in the paragraphs of the complaint designated "3", "4" and "5", respectfully referring all questions of law to the Court for decision at the time of trial.
4. Admits the allegations contained in the paragraphs of the complaint designated "7", "9", "10", "11", "12", "13" and "14".
5. Denies knowledge and information sufficient to form a belief as to the allegations contained in the paragraph of the complaint designated "8" except admits that "defendant Finkle N. Freight & Logistics was a foreign company."

6. Denies the allegations contained in the paragraph of the complaint designated "15", except admits that "on or about the 30<sup>th</sup> day of October, 2007 at about 9:53 a.m. of that day, while plaintiff Celia Campbell was operating her 2000 KIA, the said KIA came into contact with the 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and operated by defendant, Gustavo Villalba-Coronado."

AS AND FOR A FIRST AND COMPLETE AFFIRMATIVE DEFENSE

Any damages or injuries sustained by the plaintiff came about as a result of her culpable conduct as defined in CPLR Section 1411, Article 14-A, and any recovery on the part of the plaintiff shall be diminished in accordance with the guidelines set forth in that article.

AS AND FOR A SECOND AND COMPLETE AFFIRMATIVE DEFENSE

Plaintiff's injuries were caused in whole or in part by her failure to utilize seat belts at the time of the accident.

AS AND FOR A THIRD AND COMPLETE AFFIRMATIVE DEFENSE

Plaintiff is barred from bringing this action by reason of the provisions of the Comprehensive Automobile Insurance Reparations Act, Insurance Law, Article 51, Section 5102D.

AS AND FOR A FOURTH AND COMPLETE AFFIRMATIVE DEFENSE

The plaintiff herein is not entitled to recovery by reason of her failure to mitigate damages.

AS AND FOR A FIFTH AND COMPLETE AFFIRMATIVE DEFENSE


Pursuant to CPLR 4545(c), if it be determined or established that plaintiff has received or with reasonable certainty shall receive the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss, and that the same shall be

replaced or indemnified, in whole or in part from any collateral source such as insurance (except for life insurance), social security (except for those benefits provided under Title XVIII of the Social Security Act), workers compensation or employee benefit programs (except such collateral sources entitled by law to liens against any recovery of the plaintiff), then and in that event defendants hereby plead in mitigation of damages the assessments of any such cost or expense as a collateral source in reduction of the amount of the award by such replacement or indemnification, minus an amount equal to the premiums paid by the plaintiff for such benefits for the two-year period immediately preceding the accrual of this action and minus an amount equal to the projected future cost to the plaintiff of maintaining such benefits and as otherwise provided in CPLR 4545(c).

WHEREFORE, defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, demands judgment dismissing plaintiff's complaint against them, together with the costs and disbursements of this action, and for any expense incurred by them in the defense thereof, including attorneys' fees.

Dated: New York, New York  
May 13, 2008

LITCHFIELD CAVO LLP

By:   
VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

STATE OF NEW YORK     )  
                                      : ss.:  
COUNTY OF NEW YORK    )

VICTOR A. VINCENZI, an attorney admitted to practice in the Courts of the State of New York, states:

He is an attorney with LITCHFIELD CAVO LLP, attorneys for defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, herein, that he has read the foregoing ANSWER, and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief and that as to those matters he believes it to be true.

Deponent further says the reason this verification is made by him and not by the defendants is that the defendants do not reside in the County where their attorneys maintain their office.

That the sources of deponent's information and the grounds of his belief as to all the matters in said ANSWER not stated of his own knowledge are papers, records, and correspondence of said defendants in deponent's file.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: New York, New York  
May 13, 2008

  
VICTOR A. VINCENZI

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

-against-

DEMAND FOR DOLLAR  
AMOUNT OF DAMAGES  
CLAIMED

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

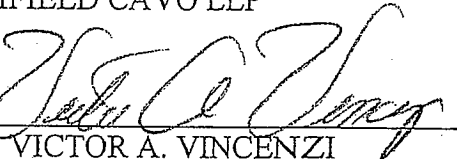
Defendants.  
-----X

Defendant, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, hereby demand that pursuant to CPLR § 3017(c), within fifteen (15) days, Plaintiff supply the monetary amount of damages sought in the above-captioned action.

Dated: New York, New York  
May 13, 2008

LITCHFIELD CAVO LLP

By:

  
VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

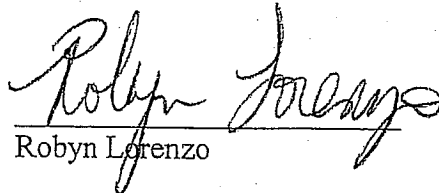
AFFIDAVIT OF SERVICE

STATE OF NEW YORK     )  
                                      )ss.:  
COUNTY OF NEW YORK    )

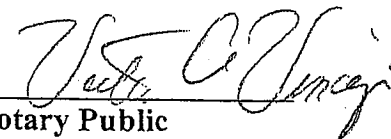
Robyn Lorenzo, being sworn, deposes and says: I am not a party to the action, am over 18 years of age, reside in Staten Island, New York, and am employed in the office of Litchfield Cavo.

On the 15<sup>th</sup> day of May, 2008, I served a true copy of the annexed VERIFIED ANSWER, DEMAND FOR A VERIFIED BILL OF PARTICULARS, DEMAND FOR PRODUCTION, NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION and DEMAND FOR DOLLAR AMOUNT OF DAMAGES CLAIMED, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known addressee as indicated below:

LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

  
Robyn Lorenzo

Sworn to before me this  
15<sup>th</sup> day of May, 2008

  
Notary Public

VICTOR A. VINCENZI  
Notary Public, State of New York  
No. 02VI4921149  
Qualified in Dutchess County  
Commission Expires Jan 25, 2012 *2010*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONXCalendar # 39  
325 (d) \_\_\_\_\_

CELIA CAMPBELL

Plaintiff(s),

- against -

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS Defendant(s),

## PRELIMINARY CONFERENCE ORDER

Pursuant to Part 202 of the Uniform Civil  
Rules for the Supreme CourtHON. Alison Tuitt  
Preliminary Conference Part  
Index Number 303120/08  
Conference Date 8/5/08

APPEARANCES: **Plaintiff:**  
 Firm: Kenneth A. LaBarca (212)  
 By Attorney: S/A/A Phone: 962-221  
 Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

**Defendant 1:** GUSTAVO VILLALBA-CORONADO  
 Firm: LITCHFIELD CAYO LLP  
 By Attorney: Victor A. Vincenzi Phone: (212) 434-0100  
 Carrier: New Jersey Maf. Phone: \_\_\_\_\_ Coverage Amount: 2 mill

**Defendant 2:** FINKLE N. FREIGHT  
 Firm: Same as Defendant 1  
 By Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

**Defendant 3:** \_\_\_\_\_  
 Firm: \_\_\_\_\_  
 By Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Carrier: \_\_\_\_\_ Phone: \_\_\_\_\_ Coverage Amount: \_\_\_\_\_

RECEIVED

BRONX COUNTY CLERK'S OFFICE

AUG 06 2008

PAID

NO FEE

I INSURANCE  
COVERAGE:☒ To be furnished within 30 days.II BILL OF  
PARTICULARS:

- ☒ 1. Not submitted: Bill of Particulars to be served by Sept 5, 2008  
unless previously provided
- ☐ 2. Served: ☐ 2(a). Satisfactory ☐ 2(b). Unsatisfactory
- ☐ 3. Supplemental bill of particulars to be served
- ☐ 4. Bill of particulars for affirmative defenses to be served

III MEDICAL REPORTS  
AND HOSPITAL  
AUTHORIZATIONS:

- ☐ 1. Furnished (Except: \_\_\_\_\_)
- ☐ 2. Medical reports or authorizations for records to be served by Sept 5,
- ☐ 3. Hospital authorizations to be served by Sept 5, 2008  
Medical, collateral Source, employment, W-2

IV PHYSICAL  
EXAMINATION:

- ☒ 1(a). Held ☐ 1(b). Waived
- ☒ 1(c). Examination of Plaintiff  
 To be held Sept w/ 45 days of Plaintiff's EBT  
 Defendant to designate physician(s) within 21 days of plaintiff's EBT
- ☐ 2(a). Physician's report furnished
- ☒ 2(b). Copy of physician's report to be furnished to plaintiff  
 within 45 days of examination.



## PRELIMINARY CONFERENCE ORDER

Page 2 of 2

- V **EXAMINATION BEFORE TRIAL:** ☒ 1. ☐ Plaintiff ☐ Defendants ☒ All parties  
☒ 2. To be held at ALBANY LOCATION  
☒ 3. Date: 10 30 - 2008 Time: 10:15 AM  
☐ 3. Held (Except: \_\_\_\_\_) ☐ Waived  
*It must be deposited by 10/30/08*
- VI **OTHER DISCLOSURE:** ☐ 1. None  
☒ 2. All parties to exchange names and addresses of all witnesses, opposing parties' statements, and photographs. If none, an affirmation to that effect shall be exchanged.  
☒ 3. Authorizations for plaintiff's employment records (IRS) including W-2 for period 2005 - PRESENT  
W/ 30 DAYS  
☐ 4. \_\_\_\_\_  
☐ 5. To be completed within \_\_\_\_\_
- VII **IMPLEADER ACTIONS:** ☐ 1(a). None ☒ 1(b). To be commenced 42 days after all EBT's.
- VIII **DESIGNATED FOR TRANSFER:** ☒ 1(a). CPLR 325 (c)  
☒ 1(b). CPLR 325 (d)
- IX **ADDITIONAL DIRECTIVES:** ☐ See attached page for additional directives
- X **ALL PARTIES:** Are directed to complete discovery on or before 3-24-09  
and appear for a compliance conference on 4-24-09

Any statutory stays of disclosure due the pendency of motions pursuant to CPLR 3211, 3212 and 3213 are vacated.

Counsel will be required to justify, at the Compliance Conference, failure to adhere to the discovery schedule set forth herein.

In the event of non-compliance, costs or other sanctions may be imposed.

This constitutes the decision and order of this court.

Dated: 8/5/08Enter: ALISON Y. TUTT

J.S.C.

**ALISON Y. TUTT**

Parties must adhere to all dates contained herein relating to the completion of items in this order. Counsel may not enter into any adjournments without further order of this court.

**Case Summary**

39

Date: 8/5/2008

Part: PC-1

0303120/2008

CAMPBELL, CELIA *F.*

vs.

VILLALBA-CORONADO

Assigned Justice:

ALAN SAKS

Attorney for Plaintiff:

KENNETH A. LABARCA

Attorney for Defendant:

LITCHFIELD CAVO - LAW OFFICE

Complexity:

Standard

Action Type:

MOTOR VEHICLE

*Truck (can - Personal @ 233*

RJ Filing Date:

6/23/2008

PC to be held by:

8/7/2008

PC Held:

CC to be held by:

4/19/2009

Discovery Due Date: 6/23/2009

NOI Filing Date:

*Then hear.*

Case Status:

Active

Open Motion:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If open motion indicator, "Y", is displayed, please indicate nature and submission date of motion.)

*[Handwritten signature]*

*a - 4-21-09.*

## Case Summary

0303120/2008

CAMPBELL, CELIA

vs.

VILLALBA-CORONADO

Date: 7/23/2008

Part: PC-1

Assigned Justice:

ALAN SAKS

Attorney for Plaintiff:

Attorney for Defendant:

KENNETH A. LABARCA

LITCHFIELD CAVO - LAW OFFICE

Complexity:  
Action Type:

Standard  
MOTOR VEHICLE

8-5-08

RJI Filing Date:

6/23/2008

PC to be held by:

8/7/2008

PC Held:

CC to be held by:

4/19/2009

Discovery Due Date:

6/23/2009

NOI Filing Date:

Case Status:

Active

Open Motion:

Y

(If open motion indicator, "Y", is displayed, please indicate nature and submission date of motion.)

## NEW YORK SUPREME COURT - COUNTY OF BRONX

PART 10/11

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX:
☐ Case Disposed  
☐ Settle Order  
☐ Schedule Appearance

CAMPBELL, CELIA

Index No. 0303120/2008

-against-

VILLALBA-CORONADO

ALISON Y. TUTT Justice.

The following papers numbered 1 to \_\_\_\_\_ Read on this motion, **DISCOVERY/PROTECTIVE ORDER**  
 Noticed on July 11 2008 and duly submitted as No. \_\_\_\_\_ on the Motion Calendar of \_\_\_\_\_

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed		
Answering Affidavit and Exhibits		
Replying Affidavit and Exhibits		
_____ Affidavits and Exhibits		
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this

Motion is Respectfully Referred to:

Justice:

Dated:

Defendant's motion to compel plaintiff to respond to  
 Defendant's demand for Dollar amount of damages claim  
 is granted. Plaintiff is provided said response ~~with~~  
~~15 days of the order~~ by 7-31-08.  
 All parties to appear for a conference on 8-5-08  
 Defendant to provide a copy of the order on plaintiff's counsel

Dated: 7/23/08Hon. Alison Y. Tuttle

ALISON Y. TUTT

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Plaintiff,

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

Index No.: 303120/08

ORDER WITH NOTICE  
OF ENTRY

COUNSELORS:

PLEASE TAKE NOTICE that the within is a true copy of an Order dated July 23, 2008 and duly entered in the within-named Court on July 25, 2008.

Dated: New York, New York  
July 30, 2008

LITCHFIELD CAVO LLP

By: 

VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

## NEW YORK SUPREME COURT - COUNTY OF BRONX

PART 10/11

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX:

Case Disposed ☐  
Settle Order ☐  
Schedule Appearance ☐

CAMPBELL, CELIA

Index No. 0303120/2008

-against-

H

VILLALBA-CORONADO

ALISON Y. TUTT Justice.

The following papers numbered 1 to \_\_\_\_\_ Read on this motion, **DISCOVERY/PROTECTIVE ORDER**  
Noticed on July 11 2008 and duly submitted as No. \_\_\_\_\_ on the Motion Calendar of \_\_\_\_\_

	PAPERS NUMBERED
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed	
Answering Affidavit and Exhibits	
Replying Affidavit and Exhibits	
_____ Affidavits and Exhibits	
Pleadings - Exhibit	
Stipulation(s) - Referee's Report - Minutes	
Filed Papers	
Memoranda of Law	

Upon the foregoing papers this

Motion is Respectfully Referred to:

Justice:

Dated:

Dated: 7/23/08

Defendant's motion to compel plaintiff to respond to  
defendant's demand for Dollar amount of damages claimed  
is granted. Plaintiff is provided said response ~~with~~  
~~15 days of the order~~ by 7-31-08.  
All parties to appear for a conference on 8-5-08  
Defendant to serve a written order on plaintiff's counsel.

Hon.

ALISON Y. TUTT

VICTOR A. VINCENZI  
Notary Public, State of New York  
No. 02V14921149  
Qualified in Dutchess County  
Commission Expires Jan 25, 2002

**REQUEST FOR JUDICIAL INTERVENTION**

UCS-840 Rev. 1/2000

Supreme Court, Bronx County

Index No.: 303120/08

Date Purchased:

For Clerk Only

CELIA CAMPBELL,

Plaintiff,

-against-

GUSTAVO VILLALBA-CORONADO and FINKLE N. FREIGHT &amp; LOGISTICS,

Defendants.

IAS Entry Date

Judge Assigned

RJI Date

Date issue joined: May 13, 2008Bill of Particulars served: ☐ Yes ☒ No**NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)**

- |  |   |
|--|---|
| <input type="checkbox"/> Request for preliminary conference                              | <input type="checkbox"/> Notice of petition (return date _____)         |
| <input type="checkbox"/> Note of Issue and/or certificate of readiness                   | Relief sought _____   |
| <input checked="" type="checkbox"/> Notice of motion (return date <u>July 11, 2008</u> ) | <input type="checkbox"/> Notice of medical or dental malpractice action |
| Relief sought <u>Compel Plaintiff</u>  | (specify _____)   |
| <input type="checkbox"/> Order to Show Cause   | <input type="checkbox"/> Statement of net worth                         |
| (clerk enter return date _____)  | <input type="checkbox"/> Writ of habeas corpus                          |
| Relief sought _____  | <input type="checkbox"/> Other (specify _____)                          |
| <input type="checkbox"/> Other ex parte application (specify _____)                      |   |

**NATURE OF ACTION OR PROCEEDING (Check ONE box only)****MATRIMONIAL**

- ☐ Contested -CM  
☐ Uncontested -UM

**COMMERCIAL**

- ☐ Contract-CONT ☐  
☐ Corporate -CORP ☐  
☐ Insurance (where insurer is a party, except arbitration) -INS  
☐ UCC (including sales, negotiable instruments) -UCC  
☐ \*Other Commercial \_\_\_\_\_ - OC

**REAL PROPERTY**

- ☐ Tax Certiorari -TAX  
☐ Foreclosure -FOR  
☐ Condemnation -COND  
☐ Landlord/Tenant -LT  
☐ \*Other Real Property \_\_\_\_\_ -ORP  
**OTHER MATTERS**  
☐ \* \_\_\_\_\_ -OTH

**TORTS****Malpractice**

- ☐ Medical/Podiatric -MM  
☐ Dental -DM  
☐ \*Other Professional \_\_\_\_\_ -OPM  
☒ Motor Vehicle -MV  
☐ \*Products Liability \_\_\_\_\_ - PL  
☐ Environmental -EN  
☐ Asbestos -ASB  
☐ Breast Implant -BI  
☐ \*Other Negligence \_\_\_\_\_ -OTN  
☐ \*Other Tort (including intentional \_\_\_\_\_)

**SPECIAL PROCEEDINGS**

- ☐ Art. 75 (Arbitration) -ART75  
☐ Art. 77 (Trusts) -ART77  
☐ Art. 78 -ART78  
☐ Election Law -ELEC  
☐ Guardianship (MHL Art. 81) -GUARD81  
☐ \*Other Mental Hygiene \_\_\_\_\_ -MHYG  
☐ \*Other Special Proceeding \_\_\_\_\_ -OSP.

\* If asterisk used, please specify further.



Check "YES" or "NO" for each of the following questions. Is this action/proceeding against a:

☐ YES ☒ NO Municipality: (Specify \_\_\_\_\_) ☐ YES ☒ NO Public Authority: (Specify \_\_\_\_\_)

☒ YES ☐ NO Does this action/proceeding seek equitable relief?

☒ YES ☐ NO Does this action/proceeding seek recovery for personal injury?

☐ YES ☒ NO Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames: (This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJ1 to filing of Note of Issue)

☐ Expedited: 0-8 months ☒ Standard: 9-12 months ☐ Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date \_\_\_\_\_

Was a Notice of no Necessity filed? ☐ No ☐ Yes, Date \_\_\_\_\_

**ATTORNEY(S) FOR PLAINTIFF(S):**

<u>Self Rep. *</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	Law Office of Kenneth A. LaBarca	305 Broadway, Suite 805 New York, NY 10007	212-962-2211
<input type="checkbox"/>			

**ATTORNEY(S) FOR DEFENDANT(S):**

<u>Self Rep. *</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	Litchfield Cavo LLP	420 Lexington Avenue, Suite 2104 New York, NY 10170	212-434-0100

\* Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

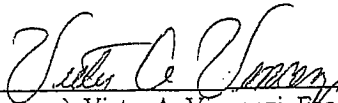
INSURANCE CARRIERS: New Jersey Manufacturers Insurance Company

RELATED CASES: (if NONE, write "NONE" below)

Title Index # Court Nature of Relationship  
NONE

I affirm under penalty of perjury that, to my knowledge, other than as noted above, there are and have been no related actions or proceedings, nor has a request of judicial intervention previously been filed in this action or proceeding.

Dated: June 19, 2008

  
(Signature) Victor A. Vincenzi, Esq.

Litchfield Cavo LLP  
(Print or type name)

Attorneys for Defendants

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

-against-

AFFIRMATION  
OF GOOD FAITH

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

VICTOR A. VINCENZI, an attorney admitted to practice law in the State of New York,  
affirms the truth of the following under penalties of perjury:

1. Your affirmant is an attorney with LITCHFIELD CAVO LLP, attorneys for  
defendants herein, and as such, am familiar with the facts and circumstances set forth herein  
based upon my review of the file.

2. Your affirmant has attempted, in a good faith effort, to resolve by agreement the  
issues raised by this motion without the intervention of court but, to date, has been unsuccessful.

3. I have written to plaintiff's attorney by letter dated May 15, 2008 and requested  
that plaintiff furnish a response to our Demand for Dollar Amount of Damages Claimed. To  
date, there has been no service of a response to said demand.

4. Accordingly, it has become necessary to make this instant motion.

Dated: New York, New York  
June 19, 2008

  
VICTOR A. VINCENZI, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

NOTICE OF MOTION

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

COUNSELORS:

MOTION BY:

LITCHFIELD CAVO, LLP  
Attorneys for Defendants.

DATE, TIME AND PLACE  
OF HEARING:

On the 11<sup>th</sup> day of July, 2008 at 9:30  
o'clock in the forenoon of day or as soon  
thereafter as counsel can be heard in Room  
217 at the above Courthouse located at 851  
Grand Concourse, Bronx, New York.

SUPPORTING PAPERS:

Affirmation of Victor A. Vincenzi, Esq.  
dated June 19, 2008 and the exhibits thereto  
attached and upon all the pleadings and  
proceedings heretofore had herein.

RELIEF DEMANDED:

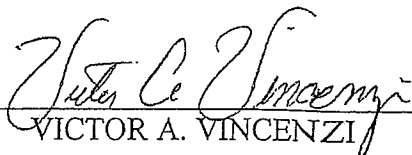
For an order pursuant to CPLR § 3017(c) to  
compel plaintiff to respond to defendants'  
Demand for Dollar Amount of Damages  
Claimed and requesting such other and  
further relief as to the Court deems just,  
proper and equitable.

ANSWERING AFFIDAVITS:

Pursuant to Rule 2214(b) answering  
affidavit are to be served upon the  
undersigned at least seven dates prior to the  
return date hereof.

Dated: New York, New York  
June 19, 2008

LITCHFIELD CAVO LLP

By:   
VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

AFFIRMATION

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

VICTOR A. VINCENZI, an attorney duly admitted to practice in the Courts of the State of New York, makes the following affirmation under penalties of perjury:

1. I am an attorney with LITCHFIELD CAVO LLP, attorneys for defendants herein, and based upon a review of the file maintained in this office, I am fully familiar with the pleadings and proceedings concerning this case.

2. I make this affirmation in support of the instant motion for an order pursuant to CPLR § 3017(c) for an order to compel plaintiff to respond to defendants' Demand for the Dollar Amount of Damages Claimed and requesting such other relief as to the Court deems just, proper and equitable.

3. This action is brought to recover for personal injuries allegedly sustained by plaintiff CELIA CAMPBELL arising out of a motor vehicle accident on October 30, 2007 at or near the intersection of East 233<sup>rd</sup> Street and Provost Avenue, Bronx, New York. The plaintiff is purportedly a resident of the Bronx, New York.

4. The above-entitled action was commenced by the filing of a summons and verified complaint on April 17, 2008 (a copy is attached as Exhibit "A"). Issue was joined by service of defendants' verified answer to plaintiff's complaint dated May 13, 2008 (a copy of the

answer is annexed as Exhibit "B"). Served concurrently with the answer, the defendants also served a Demand for Dollar Amount of Damages Claimed (a copy of the demand is attached as Exhibit "C").

5. Along with the aforementioned demands your affiant wrote a letter to plaintiff's attorney advising of the demand and the reason why such demand was made i.e., demand for the ad damnum amount for possible removal to Federal Court based upon diversity. The demand and letter both request a response with 15 days pursuant to CPLR § 3017(c). (A copy of the letter is annexed as Exhibit "D".)

6. Over 30 days have elapsed and the attorneys for the plaintiff have failed to provide a response to defendants' Demand for the Dollar Amount of Damages Claimed.

7. No previous application for the relief herein prayed has been made.

WHEREFORE, it is respectfully requested that the Court issue an order pursuant CPLR § 3017(c) to compel plaintiff to respond to defendants' Demand for Dollar Amount of Damages Claimed and granting such other and further relief as this Court deems just, proper, and equitable.

Dated: New York, New York  
June 19, 2008

  
VICTOR A. VINCENZI, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

*Plaintiff,*

~ against ~

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

*Defendants.*

Index No.: 303 120 / 2008

Plaintiff designates  
BRONX County as the  
place of trial.

The basis of the venue is:  
Plaintiff's residence

**SUMMONS**

Plaintiff resides at:  
628 East 216<sup>th</sup> Street  
Bronx, New York  
County of Bronx

08 APR 17 AM 10:37  
CLERK  
COUNTY

To the above named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
April 17, 2008

**LAW OFFICE OF KENNETH A. LABARCA**  
*Attorney for Plaintiff*  
305 Broadway, Suite 805  
New York, New York 10007  
Tel.: (212) 962-2211  
Fax: (212) 962-2255

Defendants' Addresses:

GUSTAVO VILLALBA-CORONADO  
146 EISENHOWER STREET, LAKEWOOD, NEW JERSEY 08701

FINKLE N. FREIGHT & LOGISTICS  
435 ALLWOOD ROAD, CLIFTON, NEW JERSEY 07012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX  
\_\_\_\_\_  
CELIA CAMPBELL,

*Plaintiff,*

INDEX NO.: 303 120 / 2008

*~ against ~*

VERIFIED COMPLAINT

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

\_\_\_\_\_  
*Defendants.*

Plaintiff, complaining of defendants, by KENNETH A. LABARCA, ESQ., their attorney, respectfully allege and show to this Court:

1. That at all times hereinafter mentioned, plaintiff resides in the County of Bronx, City and State of New York.
2. That as a result of the hereinafter alleged occurrence, plaintiff herein suffered a serious injury as defined by Section 5102, Subdivision (d) of the Insurance Law of the State of New York.
3. That by reason thereof, plaintiff herein is entitled to recover for non- economic loss and for such economic losses as are not included within the definition of "basic economic loss" set forth in Section 5102, Subdivision (a) of the Insurance Law of the State of New York.
4. Plaintiff herein is a "covered person" as defined by Section 5102, Subdivision (j) of the Insurance Law of the State of New York.
5. This action falls within one or more of the exceptions set forth in CPLR 1602.
6. That at all times hereinafter mentioned, plaintiff was the operator and owner of a 2000 KIA bearing New York State License Plate EAB3256.
7. Upon information and belief, defendant Gustavo Villalba-Coronado, was a resident of Lakewood, New Jersey.



8. Upon information and belief, defendant Finkle N. Freight & Logistics was a foreign company duly licensed to do business in the State of New York.

9. Upon information and belief, that at all times hereinafter mentioned, defendant Finkle N. Freight & Logistics, owned a certain 1997 FRH truck bearing New Jersey License Plate number AK588L.

10. Upon information and belief, that at all times hereinafter mentioned, defendant Gustavo Villalba-Coronado, operated the vehicle owned by defendant, Finkle N. Freight & Logistics.

11. Upon information and belief, at all times hereinafter mentioned, defendant, Gustavo Villalba-Coronado, operated the vehicle owned by defendant, Finkle N. Freight & Logistics, with the consent and/or permission of the defendant, Finkle N. Freight & Logistics.

12. That at all times hereinafter mentioned, East 233<sup>rd</sup> and Provost Avenue, County of Bronx, City and State of New York, was and still is a public highway in common use by residents of the State of New York and others.

13. That on or about 30<sup>th</sup> day of October, 2007 at about 9:53 A.M. of that day, the aforesaid 1997 FRH truck, owned by defendant Finkle N. Freight & Logistics, and operated by defendant Gustavo Villalba-Coronado, was being operated by defendant Gustavo Villalba-Coronado in the vicinity of East 233<sup>rd</sup> and Provost Avenue, County of Bronx, City and State of New York.

14. Upon information and belief, the aforesaid vehicle 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and being operated by defendant, Gustavo Villalba-Coronado, was one of the vehicles involved in the occurrence hereinafter more fully set forth.

15. That on or about the 30<sup>th</sup> day of October, 2007 at about 9:53 A.M. of that day, while plaintiff Celia Campbell was operating her 2000 KIA, the said 2000 KIA was struck by the 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and operated by defendant, Finkle N.

Freight & Logistics, thereby causing plaintiff Celia Campbell to be thrown in and about the vehicle in which she was seated and to become seriously injured about her head, body and limbs.

16. That the aforesaid occurrence and the injuries sustained by plaintiff Celia Campbell therefrom were caused solely through the fault and negligence on the part of defendants without any fault or negligence on the part of said plaintiff contributing thereto.

17. That by reason of the aforesaid occurrence, plaintiff Celia Campbell was injured about her head, body and limbs; has suffered, still suffers and, upon information and belief, will in the future continue to suffer great mental and physical pain and bodily injury; that she has been disabled and, upon information and belief, will in the future continue to be disabled by reason of said injuries; that she has required and, upon information and belief, in the future continue to require hospitalization, medical and/or surgical aid and attention for said injuries; that she has expended great sum of money to date for medical aid and attention and, upon information and belief, will be required to do so in the future; that she has been unable to attend to her regular duties and vocation and lost wages and income therefrom and, upon information and belief will in the future continue to lose wages and income and plaintiff's earning power will be diminished; that upon information and belief, her injuries and their sequelae will be of a lasting and permanent nature, and plaintiff has been deprived of the enjoyment of her life, all to plaintiff's damage in an amount the exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demand judgment against defendants in an amount that exceeds the jurisdictional limits of all lower courts together with the costs and disbursements of this action.

Dated: New York, New York  
April 17, 2008



---

LAW OFFICE OF KENNETH A. LABARCA  
*Attorney for the Plaintiffs*  
305 Broadway, Suite 805  
New York, New York 10007  
Tel.: (212) 962-2211  
Fax: (212) 962-2255

ATTORNEY VERIFICATION

STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF NEW YORK    )

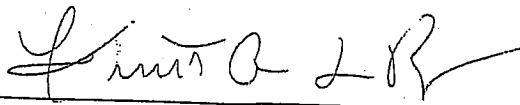
The undersigned, an attorney admitted to practice in the State of New York, affirms the following under the penalty of perjury and pursuant to CPLR §2106:

That I am the attorney of record for plaintiffs in the within action. I have read the foregoing **SUMMON AND COMPLAINT** and know the contents thereof; that same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and to those matters affirmant believes them to be true.

The undersigned further states that the reason this affirmation is made by the undersigned and not by the plaintiffs is because plaintiffs do not reside in the County where affirmant maintains his office.

The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are information contained in affirmant's file which has been obtained by the plaintiffs, police reports and investigation.

Dated: New York, New York  
April 17, 2008

  
\_\_\_\_\_  
KENNETH A. LABARCA

Law Office of  
KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, New York 10007

Index No.: 303120

Year: 2008

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

*Plaintiff,*

*~against~*

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

*Defendants.*

SUMMONS and VERIFIED COMPLAINT

Form Signature Rule: (130-1.1-a)



KENNETH A. LABARCA, ESQ.

*Attorney for Plaintiff*

305 Broadway, Suite 805

New York, New York 10007

Tel.: (212) 962-2211

Fax: (212) 962-2255

To:

GUSTAVO VILLALBA-CORONADO  
146 EISENHOWER STREET, LAKEWOOD, NEW JERSEY 08701

FINKLE N. FREIGHT & LOGISTICS  
435 ALLWOOD ROAD, CLIFTON, NEW JERSEY 07012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

VERIFIED ANSWER

-against-

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

Defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, by their attorneys, LITCHFIELD CAVO, LLP, answering the complaint of the plaintiff herein, respectfully allege upon information and belief as follows:

1. Denies knowledge and information sufficient to form a belief as to the allegations contained in the paragraphs of the complaint designated "1" and "6".
2. Denies each and every allegation contained in the paragraphs of the complaint designated "2", "16" and "17".
3. Denies each and every allegation contained in the paragraphs of the complaint designated "3", "4" and "5", respectfully referring all questions of law to the Court for decision at the time of trial.
4. Admits the allegations contained in the paragraphs of the complaint designated "7", "9", "10", "11", "12", "13" and "14".
5. Denies knowledge and information sufficient to form a belief as to the allegations contained in the paragraph of the complaint designated "8" except admits that "defendant Finkle N. Freight & Logistics was a foreign company."

6. Denies the allegations contained in the paragraph of the complaint designated "15", except admits that "on or about the 30<sup>th</sup> day of October, 2007 at about 9:53 a.m. of that day, while plaintiff Celia Campbell was operating her 2000 KIA, the said KIA came into contact with the 1997 FRH truck owned by defendant, Finkle N. Freight & Logistics, and operated by defendant, Gustavo Villalba-Coronado."

AS AND FOR A FIRST AND COMPLETE AFFIRMATIVE DEFENSE

Any damages or injuries sustained by the plaintiff came about as a result of her culpable conduct as defined in CPLR Section 1411, Article 14-A, and any recovery on the part of the plaintiff shall be diminished in accordance with the guidelines set forth in that article.

AS AND FOR A SECOND AND COMPLETE AFFIRMATIVE DEFENSE

Plaintiff's injuries were caused in whole or in part by her failure to utilize seat belts at the time of the accident.

AS AND FOR A THIRD AND COMPLETE AFFIRMATIVE DEFENSE

Plaintiff is barred from bringing this action by reason of the provisions of the Comprehensive Automobile Insurance Reparations Act, Insurance Law, Article 51, Section 5102D.

AS AND FOR A FOURTH AND COMPLETE AFFIRMATIVE DEFENSE

The plaintiff herein is not entitled to recovery by reason of her failure to mitigate damages.

AS AND FOR A FIFTH AND COMPLETE AFFIRMATIVE DEFENSE

Pursuant to CPLR 4545(c), if it be determined or established that plaintiff has received or with reasonable certainty shall receive the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss, and that the same shall be

replaced or indemnified, in whole or in part from any collateral source such as insurance (except for life insurance), social security (except for those benefits provided under Title XVIII of the Social Security Act), workers compensation or employee benefit programs (except such collateral sources entitled by law to liens against any recovery of the plaintiff), then and in that event defendants hereby plead in mitigation of damages the assessments of any such cost or expense as a collateral source in reduction of the amount of the award by such replacement or indemnification, minus an amount equal to the premiums paid by the plaintiff for such benefits for the two-year period immediately preceding the accrual of this action and minus an amount equal to the projected future cost to the plaintiff of maintaining such benefits and as otherwise provided in CPLR 4545(c).

WHEREFORE, defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, demands judgment dismissing plaintiff's complaint against them, together with the costs and disbursements of this action, and for any expense incurred by them in the defense thereof, including attorneys' fees.

Dated: New York, New York  
May 13, 2008

LITCHFIELD CAVO LLP

By:

  
VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211



STATE OF NEW YORK     )  
                                      : ss.:  
COUNTY OF NEW YORK    )

VICTOR A. VINCENZI, an attorney admitted to practice in the Courts of the State of New York, states:

He is an attorney with LITCHFIELD CAVO LLP, attorneys for defendants, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, herein, that he has read the foregoing ANSWER, and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief and that as to those matters he believes it to be true.

Deponent further says the reason this verification is made by him and not by the defendants is that the defendants do not reside in the County where their attorneys maintain their office.

That the sources of deponent's information and the grounds of his belief as to all the matters in said ANSWER not stated of his own knowledge are papers, records, and correspondence of said defendants in deponent's file.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: New York, New York  
May 13, 2008

  
VICTOR A. VINCENZI

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

-against-

DEMAND FOR DOLLAR  
AMOUNT OF DAMAGES  
CLAIMED

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

Defendant, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, hereby demand that pursuant to CPLR § 3017(c), within fifteen (15) days, Plaintiff supply the monetary amount of damages sought in the above-captioned action.

Dated: New York, New York  
May 13, 2008

LITCHFIELD CAVO LLP

By: 

VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100  
*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

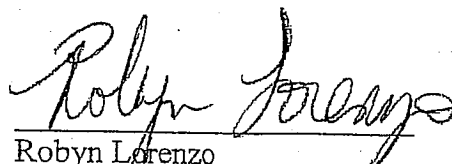
AFFIDAVIT OF SERVICE

STATE OF NEW YORK     )  
                                      )ss.:  
COUNTY OF NEW YORK    )

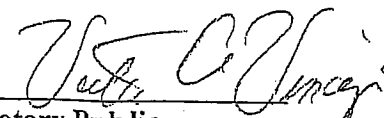
Robyn Lorenzo, being sworn, deposes and says: I am not a party to the action, am over 18 years of age, reside in Staten Island, New York, and am employed in the office of Litchfield Cavo.

On the 15<sup>th</sup> day of May, 2008, I served a true copy of the annexed VERIFIED ANSWER, DEMAND FOR A VERIFIED BILL OF PARTICULARS, DEMAND FOR PRODUCTION, NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION and DEMAND FOR DOLLAR AMOUNT OF DAMAGES CLAIMED, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known addressee as indicated below:

LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

  
Robyn Lorenzo

Sworn to before me this  
15<sup>th</sup> day of May, 2008

  
Notary Public

VICTOR A. VINCENZI  
Notary Public, State of New York  
No. 02V14921149  
Qualified in Dutchess County  
Commission Expires Jun 25, 2012 *2010*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
CELIA CAMPBELL,

Index No.: 303120/08

Plaintiff,

-against-

DEMAND FOR DOLLAR  
AMOUNT OF DAMAGES  
CLAIMED

GUSTAVO VILLALBA-CORONADO and  
FINKLE N. FREIGHT & LOGISTICS,

Defendants.  
-----X

Defendant, GUSTAVO VILLALBA-CORONADO and FINKLE IV FREIGHT & LOGISTICS, INC. s/h/a FINKLE N. FREIGHT & LOGISTICS, hereby demand that pursuant to CPLR § 3017(c), within fifteen (15) days, Plaintiff supply the monetary amount of damages sought in the above-captioned action.

Dated: New York, New York  
May 13, 2008

LITCHFIELD CAVO LLP

By: 

VICTOR A. VINCENZI

420 Lexington Avenue, Suite 2104  
New York, NY 10170  
(212) 434-0100

*Attorneys for Defendants*

TO: LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*


**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  )ss.:  
COUNTY OF NEW YORK    )

Robyn Lorenzo, being sworn, deposes and says: I am not a party to the action, am over 18 years of age, reside in Staten Island, New York, and am employed in the office of Litchfield Cavo.

On the 19<sup>th</sup> day of June, 2008, I served a true copy of the annexed **REQUEST FOR JUDICIAL INTERVENTION and MOTION PAPERS**, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known addressee as indicated below:

LAW OFFICE OF KENNETH A. LABARCA  
305 Broadway, Suite 805  
New York, NY 10007  
(212) 962-2211  
*Attorneys for Plaintiff*

  
Robyn Lorenzo

Sworn to before me this  
19<sup>th</sup> day of June, 2008

  
Notary Public

VICTOR A. VINCENZI  
Notary Public, State of New York  
No. 02V14921149  
Qualified in Dutchess County  
Commission Expires Jan 25, 2012 *2010*



Index No.

Year 20

303120/08

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

CELIA CAMPBELL,

Plaintiff,

-against-

GUSTAVO VILLALBA-CORONADO and FINKLE N. FREIGHT &amp; LOGISTICS,

Defendants.

## REQUEST FOR JUDICIAL INTERVENTION and MOTION PAPERS

Defendants LITCHFIELD CAVO LLP

Attorneys for

420 LEXINGTON AVENUE  
SUITE 2104  
NEW YORK, N.Y. 10170  
(212) 434-0100  
FAX (212) 434-0105

Pursuant to 22 NYCRR 130.1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated:

Signature:

Print Signer's Name:

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

## PLEASE TAKE NOTICE

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NOTICE OF  
ENTRYthat the within is a (certified) true copy of a  
entered in the office of the clerk of the within-named Court on

20

NOTICE OF  
SETTLEMENTthat an Order of which the within is a true copy will be presented for settlement to the  
Hon. \_\_\_\_\_, one of the judges of the within-named Court,  
at \_\_\_\_\_  
on \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_ M.

Dated:


**AMERICAN CLERICAL SERVICE**  
 A Division of Empire Lawyers Services, LLC

 116 John Street  
 New York, New York 10038

 Phone: (212) 233-4040 Fax: (212) 732-4327  
 e-mail: [acs@elaw.com](mailto:acs@elaw.com)

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TODAY'S		DATE <u>6/20/08</u>		<input type="checkbox"/> CLERICAL	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> CALENDAR #
COURT	<u>Supreme</u>	COUNTY	<u>Bedx</u>	INDEX #	<u>303120/08</u>	
JUDGE/PART	<u>Rodm 217</u>	RETURN DATE:	<u>7/11/08</u>			
PLAINTIFF:	<u>Campbell</u>					
DEFENDENT:	<u>Villalba-Coronado</u>					
FILE NO.	<u>3129-48</u>	ATTORNEY	<u>VAV</u>		SECRETARY	<u>RLC</u>

Please file RJ and motion  
 papers. Advise if assigned  
 Judge. Thank you.

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The Citigroup Private Bank

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3032/08					

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DATE 6/20/08

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**LITCHFIELD CAVO LLP**  
**NEW YORK GENERAL ACCOUNT**  
 420 LEXINGTON AVE., STE. 1750  
 NEW YORK, NY 10170

5

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CITIBANK, N.A. BR. #98  
 600 WEST MADISON STREET  
 CHICAGO, IL 60661

The Citigroup Private Bank

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3032/08					

PAY TO THE ORDER OF Clerk of Supreme Court County

DATE 6/20/08

\$ 45.00

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**LITCHFIELD CAVO LLP**  
**NEW YORK GENERAL ACCOUNT**  
 420 LEXINGTON AVE., STE. 1750  
 NEW YORK, NY 10170

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⑈005774⑈ ⑆27107080⑈0800417988⑈

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS LISTED

*[Signature]*